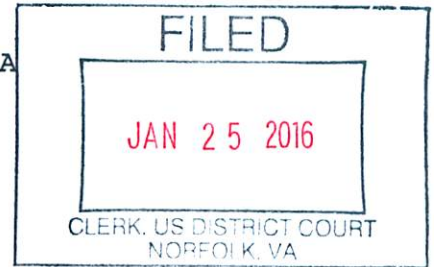


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



WILLIAM EARL ARNOLD, #1321103,

Petitioner,

v.

ACTION NO. 2:14cv624

HAROLD CLARKE,
Director VDOC,

Respondent.

FINAL ORDER

Petitioner, a Virginia inmate, submitted a *pro se* petition, pursuant to 28 U.S.C. § 2254. ECF No. 1. The petition alleges violations of federal rights pertaining to petitioner's convictions in the Circuit Court of Virginia Beach for robbery with the use of a gun and use of a firearm in the commission of a felony. As a result of the convictions, petitioner was sentenced, on November 3, 2011, to serve thirteen years in the Virginia penal system.

The matter was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The amended report and recommendation, filed December 2, 2015, recommends that respondent's motion to

dismiss, ECF No. 11, be granted, and the petition for a writ of habeas corpus, ECF No. 1, be denied and dismissed with prejudice. ECF No. 22. Each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. On December 11, 2015, the Court received petitioner's objections to the report and recommendation. ECF No. 23.

The Court, having reviewed the record and examined the objections filed by petitioner to the report and recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation, filed December 2, 2015.

In petitioner's objections, he restates many of the claims raised in his petition for a writ of habeas corpus, including that counsel was ineffective for not filing a motion to suppress evidence seized from petitioner's hotel room and not calling Sonya Stanford as a witness to testify that she did not give police officers consent to search the hotel room. These claims were adequately addressed by the Magistrate Judge's amended report and recommendation. To the extent petitioner asserts that these claims were not properly addressed in the Virginia appellate courts, this argument lacks merit and does not call

into question the conclusions made in the Magistrate Judge's amended report and recommendation.

The Court, therefore, ORDERS that respondent's motion to dismiss, ECF No. 11, is GRANTED, and the petition for a writ of habeas corpus, ECF No. 1, is DENIED and DIMISSED WITH PREJUDICE. It is further ORDERED that judgment be entered in favor of respondent.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," and, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this final order by filing a notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

The Clerk shall mail a copy of this final order to petitioner and to counsel of record for respondent.

/s/ 

Mark S. Davis

~~United States District Judge~~

Mark S. Davis

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
January 25, 2016